

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO\

JIMMIE W. DAVIS, individually and  
as TRUSTEE of the JIMMIE W. DAVIS  
REVOCABLE TRUST,

Plaintiffs/Counterdefendants,

vs.

Civ. No. 10-883 KG/WPL

ST. ANSELM EXPLORATION CO.,  
a Colorado corporation, ANNA M. R.  
WELLS, and MARK S. PALMER,

Defendants/Counterclaimants.

ORDER OVERRULING OBJECTION

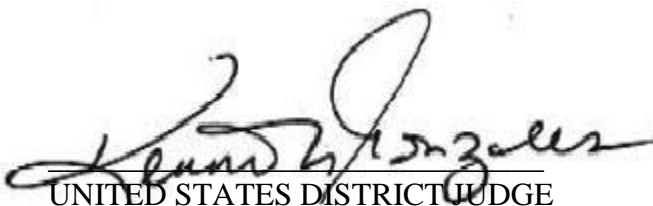
This matter is before the Court on Defendants' Objection Pursuant to Fed. R. Civ. P. 72(a) to the April 1, 2013, Order [Doc. No. 162] Denying Defendants' Motion for Leave to Conduct Limited Discovery Under Fed. R. Civ. P. 34(A)(2) [sic] and to Formally Designate Expert Witness Pursuant to Fed. R. Civ. P. 26(A)(2) [sic] and Submit Supplemental Expert Report Under Fed. R. Civ. P. 26(E) [sic] [Doc. No. 151] (Objection). (Doc. 163). Defendants timely filed their Objection on April 15, 2013. *See* Rule 72(a) (fourteen days to serve and file objections). Having reviewed the Objection and the Magistrate Judge's Order Denying Motion to Appoint Experts and Reopen Discovery (Order), the Court overrules the Objection.

Under Rule 72(a), when a magistrate judge enters an order on a non-dispositive motion, "[t]he district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law." The clearly erroneous standard "requires that the reviewing court affirm unless [the court] on the entire evidence is left with the

definite and firm conviction that a mistake has been committed.” *Ocelot Oil Corp. v. Sparrow Industries*, 847 F.2d 1458, 1464 (10th Cir. 1988) (internal quotation marks omitted). When determining whether a magistrate judge’s order is contrary to law, the district court uses a *de novo* review of the magistrate judge’s legal conclusions. *Weekoty v. United States*, 30 F.Supp.2d 1343, 1344 (D.N.M. 1998). A magistrate judge’s decision is contrary to law when “the magistrate judge has misinterpreted or misapplied applicable law.” *Gunter v. Ridgewood Energy Corp.*, 32 F.Supp.2d 162, 164 (D.N.J. 1998).

Having reviewed the Magistrate Judge’s Order, the Court concludes that the Magistrate Judge’s findings are not clearly erroneous. In addition, after a *de novo* review of the Order, the Court cannot conclude that any part of the Order is contrary to law. The Court, therefore, determines that Defendants’ Objection is not well-taken and will be overruled.

IT IS HEREBY ORDERED that Defendants’ Objection (Doc. 163) is overruled.



UNITED STATES DISTRICT JUDGE